

**Applicant:** Francisco Contreras

**Agent:** N/A

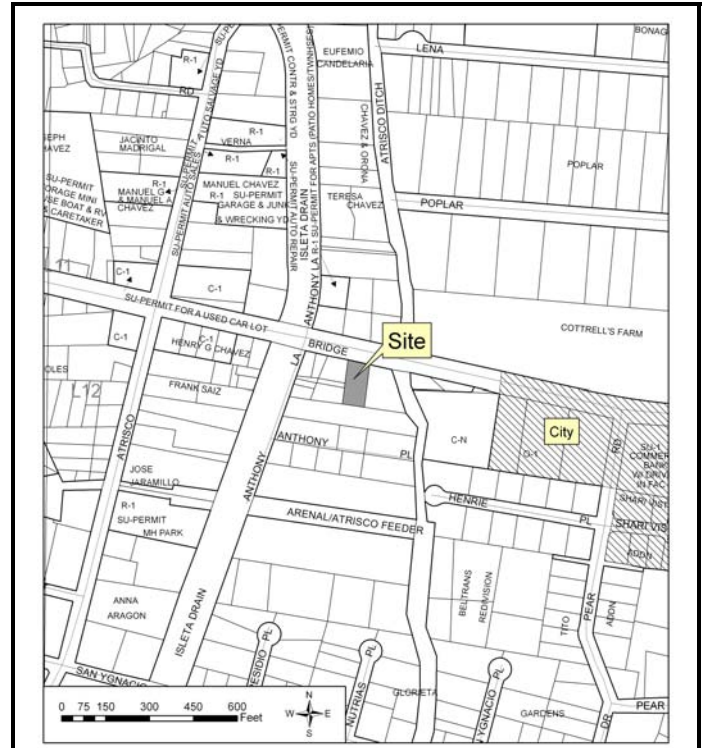
**Location:** 2112 Bridge Boulevard SW

**Property Size:** .26 acre (approximately)

**Existing Zone:** R-1

**Proposed Request:** Special Use Permit for a Specific Use for Sale of Fruit, Vegetables, or Nursery Stock (Chile Sales)

**Recommendation:** Deferral



**Summary:** The applicant is requesting a Special Use Permit for a Specific Use for Sale of Fruit, Vegetables, or Nursery Stock (Chile Sales) on a site located at 2112 Bridge Boulevard SW. The applicant has been operating the chile sales business at this location since 1988.

The subject site is located in the Semi Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan and Residential Area 3 of the Southwest Area Plan.

**Staff Planner:** Adella Gallegos, Associate Program Planner

**Attachments:**

1. Application
2. Land Use Map
3. Site Plan (Commissioners Only)

Bernalillo County Departments and other interested agencies reviewed this application from 7/29/08 to 8/11/08. Agency comments are verbatim and were used in preparation of this report, which begin on page 10.

**AGENDA ITEM NO.: 18**  
**County Planning Commission**  
**September 3, 2008**

CSU-80024 Francisco Contreras requests approval of a Special Use Permit for a Specific Use for the Sale of Fruit, Vegetables, or Nursery Stock (Chile Sales) on Tract A, Lands of George & Mary Davis, located at 2112 Bridge Boulevard SW, zoned R-1, and containing approximately .26 acres. (L-12)

**AREA CHARACTERISTICS AND ZONING HISTORY**

**Surrounding Zoning & Land Uses**

<b>Site</b>	<b>Zoning</b>	<b>Land Use</b>
	R-1	Chile Sales Stand, Residential Dwelling
<b>North</b>	R-1	Multiple Family Dwellings (Apartments) and an Alfalfa Field
<b>South</b>	R-1	Residential Dwellings
<b>East</b>	R-1	A Vacant Residential Dwelling and the Atrisco Ditch
<b>West</b>	R-1	Residential Dwellings

**BACKGROUND:**

The Request

The applicant is requesting a Special Use Permit for a Specific Use for Sale of Fruit, Vegetables, or Nursery Stock (Chile Sales). The applicant has been operating a chile sales stand at this location since 1988. Currently, existing on the site is the chile sales stand, a residential dwelling and storage shed. Although the applicant is not the owner of the site, he has resided at this location since 1988.

This request is a result of a 2008 notification given to the applicant that his Special Use Permit for a Chile Sales Business had expired as of August 15, 1992. The applicant has been operating the chili sales stand at this location with an expired Special Use Permit for over 16 years. The first approved Special Use Permit for a Chile Sales Business was for one (1) year (CSU-88-15) followed by a Special Use Permit amendment to continue Chile Sales for three years (CSU-89-33).

Request Justification

The applicant states that this request is consistent with Resolution 116-86 in that there has been changed community conditions surrounding the subject site towards commercial development and that his business provides a service that is needed and convenient to the surrounding residential development.

**Surrounding Land Use and Zoning**

The subject site is surrounded by R-1 zoning and is situated between the Isleta Drain and the Atrisco Ditch. Although the subject site is amid a predominately residential surrounding, there is commercial zoning in the general area. C-1, CN and City C-1, C-2, exists in close proximity to the west and east of the site, specifically at Atrisco and Bridge and Goff and Bridge. North of Bridge Boulevard exists R-1 zoning developed with what appears to be multiple family dwellings (apartments) and a large amount of open space that is being farmed for alfalfa. Adjacent to the subject site on the east and west are residential dwellings that are currently vacant. The owner of the subject property also owns the adjacent property to the east.

The most recent zoning activity in the area was the approval of two (2) Special Use Permits: (1) Special Use Permit for Apartments (Patio Homes/Townhouses) (CSU-60023), approved by the Board of County Commissioners on August 22, 2006; and (2) Special Use Permit for Specific Uses for Automobile Sales & Repair, and Outdoor Storage (for RV) (CSU-80014), approved by the Board of County Commissioner on June 24, 2008. Both of these Special Use Permits are located just north of the subject site.

**APPLICABLE PLANS AND POLICIES:**

Albuquerque/Bernalillo County Comprehensive Plan

The site is within the Semi Urban Area as designated in the Comprehensive Plan. The goal in the Comprehensive Plan is to "maintain the character and identify of semi urban areas, which have environmental, social or cultural conditions limiting urban land uses."

**Policy a** states "Development in the semi-urban area shall be consistent with development limitations imposed by topography, soil conditions, groundwater quality, agricultural potential,

flood potential, scenic qualities, recreation potential and existing development; the overall gross density shall be up to three dwelling units per acre.”

**Policy b** states “Development in semi-urban areas shall include trail corridors, where appropriate, and shall be compatible with economic policies and historical and socio-cultural values, and shall maintain and integrate existing and new buildings and spaces of local significance into the community.”

**Policy c** states that:

- “Mixed use areas should protect residential uses in the area, while offering a variety of local employment opportunities.”

**Southwest Area Plan (SWAP)**

**Policy 29** states that, “The City and County shall stabilize residential zoning and land use in the Plan area.”

- c. Limit the location, duration and type of new uses allowed by special use permits to those meeting all the requirements of the adopted zoning ordinance.
  - 1. Restrict new special use permits for heavy commercial and manufacturing uses in South Valley residential zones to owner-occupied businesses with five or fewer employees on ½ acre or greater.
  - 2. Limit the time period between approval of new special use permits and issuance of a building permit to one year.

**Policy 34** states that, “Standards for outdoor lighting shall be implemented to ensure that their use does not interfere with the night sky environment and unnecessarily adjacent properties.”

- a) Outdoor light poles within residential areas should not exceed sixteen (16) feet in height above existing grade; when mounted on buildings or structures, fixtures should not exceed twelve (12) feet from existing grade.

**Policy 45** states that, “Encourage the location of newly developing neighborhood scale commercial and office use to be within their defined village centers. “

**Policy 46** states that, “Balance economic development and quality of life for existing communities as well as for newly developed areas.”

**Policy 49** states that “Promote small scale community commercial centers which foster a market place atmosphere; improve profit for small businesses; provide jobs; and circulate dollars with the Area economy to enhance a community environment and meet retail, recreation and service needs of Area plan residents.”

**Policy 50** states that, “Emphasize job creation and expansion of employment opportunities for residents of the Southwest Area Plan.”

**Policy 54** states that, "Promote and assist the viability of agricultural based economic activities in the Plan Area.

- d) Encourage local processing to strengthen the Area economy.
- e) Assist in marketing of local agricultural products.
- f) Encourage a "buy local" program.
- i) Assist in establishing potential markets for local goods, e.g. farmer markets, local food co-ops, health food stores, mom and pop stores, public schools, private schools, colleges, businesses, correctional facilities and restaurants.

**Bernalillo County Zoning Ordinance**

**Resolution 116-86** defines criteria for evaluating a Zone Map changes and Special Use Permit applications.

The following policies for deciding zone map changes and Special Use Permit applications pursuant to the adopted Bernalillo County Zoning Ordinance.

- A. A proposed land use change must be found to be consistent with the health, safety and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan of other Master Plans and amendments thereto including privately developed area plans which have been adopted by the Board of County Commissioners.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
  - 1. An error in the original zone map.
  - 2. Changed neighborhood conditions, which justifies a change in land use or
  - 3. That a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the Board of County Commissioners.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.

- H. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
  - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- I. A zone change request, which would give a zone different from the surrounding zoning to a strip of land along a street, is generally called a "strip zoning." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
  - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

**Section 18. Special Use Permit Regulations.**

- A. By Special Use Permit after receipt of a recommendation from the Bernalillo County Planning Commission, the Board of County Commissioners may authorize the location of uses in any zone in which they are not permitted by other sections of this ordinance; the Bernalillo County Commission may likewise authorize the increase in height of buildings beyond the limits set by previous sections of this ordinance. With such permits, the Bernalillo County Commission may impose such conditions and limitations as it deems necessary:
  - 1. To ensure that the degree of compatibility of property uses which this section is intended to promote and preserve shall be maintained with respect to the special use on the particular site and consideration of existing and potential uses of property within the zone and the general area in which the use is proposed to be located;
  - 2. To ensure that the proper performance standards and conditions are, whenever necessary, imposed upon uses which are, or which reasonably may be expected to become, obnoxious, dangerous, offensive or injurious to the health, safety, or welfare of the public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances;

3. To preserve the utility, integrity and character of the zone in which the use will be located, without adversely affecting adjacent zones; and
4. To ensure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.

In certain situations based on unique conditions, and where there is evidence of substantial support from the affected neighborhood residents and/or property owners within 100 feet, a Special Use Permit may be recommended for approval by the Board of county Commissioners for any of the specific uses set forth in Section 12, 13, 14, 15, 16, 17, and 18 of the Bernalillo County Zoning Ordinance. The Special Use Permits may be considered by the County Planning Commission only after it has been determined that the requested zone is inappropriate, and that unique conditions and substantial neighborhood support exist.

**Section 19: Landscaping and Buffer Landscaping Regulations:**

Where a nonresidential zone which is hereafter developed for a business purpose abuts a residentially zoned property, special buffer landscaping is required to minimize noise, lighting and sight impact of the nonresidential activities in the residential area.

- A. Landscaping and buffer landscaping will be required in all zones for office, commercial, industrial, and multifamily residential uses; R-1, A-1, A-2 and M-H residential uses are exempt.
  1. Sites of one acre or less:
    - a. There shall be a landscaped setback along all streets of no less than ten feet.
    - b. There shall be a landscaped buffer of six feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
    - c. Fifteen percent of all paved areas shall be landscaped. The landscaped setback shall contribute toward this requirement.
- B. In a nonresidential zone, a solid wall or a solid fence at least six feet high shall be erected on sides abutting a single family residential use, except for those sides abutting public right-of-way.
- E. Landscaping which dies shall be replaced by the property owner who is obligated to provide it as expeditiously as possible, but in no case longer than 30 days after notification. If the 30-day period falls at a time of the year when planting of landscaping is inadvisable, a waiver may be granted by the Zoning Administrator to allow planting at the earliest possible time. The waiver and date of the planting deadline shall be recorded by the County Zoning Office.
- G. Parking spaces within a parking lot shall be no more than 50 feet from a tree.
- H. Nonconforming Landscaping. Premises which, when they were developed, were not required to be developed in accordance with the Landscaping and Buffer Landscaping Regulations Section of this ordinance, shall be made to conform to this regulation within two years due to the amendment of the map or text of this ordinance.

**ANALYSIS:**

**Surrounding Land Use and Zoning**

The subject site is surrounded by R-1 zoning and is situated between the Isleta Drain and the Atrisco Ditch amid a predominately residential surrounding. Both residential and commercial land uses exist along Bridge Boulevard. Commercial zoning (C-1, CN and City C-1, C-2) exists in close proximity to the west and east of the site, specifically at the Atrisco and Bridge and Goff and Bridge intersections. The R-1 zoning to the north of Bridge Boulevard is developed with what appear to be multiple family dwellings (apartments) and a large area that is being farmed for alfalfa. To the east, west and south are residential dwellings.

**Plans**

Albuquerque/Bernalillo County Comprehensive Plan

This site is located in the Semi Urban Area as designated by the Albuquerque/Bernalillo County Comprehensive Plan which calls for maintaining the character and identify of semi urban areas. This request appears to facilitate the Plan as the use of the site for a seasonal chili stand is of an agricultural nature and will maintain the integrity and character of the surrounding residential environment.

Although Policy 45 of the Southwest Area Plan calls for commercial development to be located in a defined village center; consequently, Policy 54 calls for promoting the viability of marketing and purchasing of local agricultural products. The proposed land use is agricultural in nature and is for the sale of local agricultural products. This request does not appear to be an intense commercial use and the business is family-owned and operated with the family currently residing on the subject site.

**Zoning Ordinance**

The purpose of the R-1 zone is to provide for the development of single-family homes. There are a number of permissive uses allowed in the R-1 which includes the sale and display of home-raised agricultural products. The products associated with this request are not raised on the site; however, the proposed request is for a small stand for sale and display of locally grown products.

The applicant's justification to Resolution 116-86 appears to be consistent in that there are changed neighborhood conditions in the general area towards a mixture of commercial and multiple family residential uses.

**Analysis Summary**

Zoning	
Resolution 116-86	The proposed land use is advantageous to the surrounding community by providing a service that is needed and convenient to the residential surroundings.
Plans	



COUNTY PLANNING COMMISSION

September 3, 2008

CSU-80024

Comprehensive Plan	The proposed land use is of an agricultural nature and will maintain the integrity and character of the surrounding residential environment as articulated in the goal for the Semi Urban area.
Southwest Area Plan	Policy 54 calls for promoting the viability of marketing and purchasing of local agricultural products.
Other Requirements	
Office of Env. Health	A produce permit and proof that all food/produce supplies are provided from an approved source prior to sale to public.

**Conclusion**

This site is located in the Semi Urban Area of Comprehensive Plan which calls for maintaining the character and identify of the semi urban areas, which have environmental, social or cultural conditions limiting urban land uses. This request appears to facilitate the Plan as the use of the site for a seasonal chile stand is of an agricultural nature and will maintain the integrity and character of the surrounding residential environment.

Although the proposed land use is not located in a defined village center as called for in the Southwest Area Plan, Policy 54 calls for promoting the viability of marketing and purchasing of local agricultural products. The South Valley is an appropriate place for the proposed land use in that it is in keeping with the semi urban nature of the area, and would be advantageous to the surrounding community by providing a service that is needed and convenient.

This request does not appear to be an intense commercial use in that the business is family-owned and operated with the applicant residing on the subject site. The applicant has been operating a small chile sales stand at this location for over twenty years which does not appear to have had an adverse impact on the adjoining and surrounding residential community.

To date, the applicant has not submitted the required substantial neighborhood support petition required in Section 18.B.32.a. of the Zone Code. Also there are some changes that will be required to be made on the site plan, i.e. existing landscaping and storage area content. There has been no opposition submitted with this request.

**RECOMMENDATION:** Staff is recommending deferral of CSU-80024.

Adella Gallegos.  
Associate Program Planner

**BERNALILLO COUNTY DEPARTMENT COMMENTS**

Environmental Health:

1. water and sewer acct. 23030921
2. Office of EH Produce Permit is required. Proof that all food/produce supplies are provided from an approved source prior to sale to public. Call 314-0310.

Zoning Enforcement Manager:

Based on the above comments there is no adverse comments at this time. No zoning violation.

Zoning Administrator:

Although the underlying zoning (R-1) does permissively allow for limited agricultural activities – including the use of stands “for the display and sale of home-raised agricultural products” (SEC.9.B.2.a.) – the off-site growing and subsequent transportation of chili to the subject site necessitates the requested Special Use Permit.

Building Department Manager: No comments received.

Fire:

Before this business can begin operation they first must apply for a business license and this will call for a fire inspection and must comply with all fire department requirements before operating as a business.

Public Works:

DRAN:

No adverse comment. New construction or surfacing of the lot may require a conceptual grading and drainage plan.

DRE:

1. Please show the distance from the property line to Bridge Boulevard sidewalk, curb and gutter improvements.
2. The width of the proposed entrance differs from the existing driveway. Widening will require a permit from BCPWD.

Parks & Recreation: No comments received.

Sheriff's: No comments received.

**COMMENTS FROM OTHER AGENCIES**

**MRGCOG:**

Bridge Bd is designated on the ITS Implementation Map as a site for ITS improvements in the near-term (ie, before 2015). Coordination with County representatives on the ITS Subcommittee is recommended.

For information purposes, Bridge BD has a functional classification of urban principal arterial.

AMAFCA: No comments received.

Municipal Development Dept.:

Transp. Planning: No adverse comments.

Transp. Development: No comments received.

City Transit: No comments received.

ABCWUA Utility Development Section: No comments received.

City Environmental Health: No comments received.

City Open Space: Open space has not adverse comments.

NM Department of Transportation:

Due to the size, and location of the development, there will be no significant impact to the state roadway system. Therefore, we have no requirements or objections to the processing of the requested special use permit.

Albuquerque Public School: This will have no adverse impact to the APS district.

PNM: No comment based on the information provided to date.

**NEIGHBORHOOD ASSOCIATIONS:**

South Valley Coalition of Neighborhoods

South Valley Alliance